APPENDIX

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1972

No. 72-1589

VIOLA N. RICHARDSON, as County Clerk and Registrar of Voters for the County of Mendocino, individually and as a representative of the class of all other County Clerks and Registrars of Voters,

Petitioner,

vs.

ABRAN RAMIREZ, LARRY GILL and ALBERT LEE, on behalf of themselves and all others similarly situated, LOS PINTOS, 7TH STEP FOUNDATION, INC. (CALIFORNIA AFFILIATES), PRISONERS' UNION, and THE LEAGUE OF WOMEN VOTERS OF CALIFORNIA, *Respondents.*

On Writ of Certiorari to the Supreme Court of the State of California

Petition for Certiorari Filed May 26, 1973
Certiorari Granted October 9, 1973

Subject Index

	Page
Chronological list of relevant docket entries	1
Petition for writ of mandate	4
Exhibits to petition for writ of mandate	25
a. Exhibit F	27
b. Exhibit I	28
c. Chart summarizing Secretary of State's survey of voter registration practices	33-40
Order granting alternative writ of mandate	41
Alternative writ of mandate	42
Complaint in intervention	44
Return to alternative writ by Secretary of State	52
Return to alternative writ by County Clerk of Monterey County	55
Return to alternative writ by County Clerk of San Luis Obispo County	57
Order joining County Clerk of Mendocino County as respondent	58
Decision below	58

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

1. 5-31-72—Petition for Writ of Mandate and Memorandum of Points and Authorities in Support of Petition for Writ of Mandate.
2. 6-19-72—Lodged exhibits Brown.
3. 7-31-72—Memorandum of Points and Authorities in Response to Petition for Writ of Mandate submitted by respondent Secretary of State.
4. 9-07-72—The Alternative Writ of Mandamus was ordered issued.
5. 9-12-72—Alternative Writ of Mandamus was issued.
6. 9-15-72—Filed letter from County Clerk, San Luis Obispo County, of intended compliance with Alternative Writ.
7. 9-15-72—Motion for Order Granting Leave to Intervene in Pending Action.
8. 10-02-72—Supplementary Points and Authorities in Support of Motion for Order Granting Leave to Intervene in Pending Action.
9. 10-02-72—Return to Alternate Writ of Mandamus by Respondent Edmund G. Brown, Jr., Secretary of State.

10. 10-11-72—Application of American Civil Liberties Union of Southern California for Leave to File Brief as Amicus Curiae on Behalf of Petitioners; brief of amicus curiae filed.

11. 10-13-72—Return to Alternative Writ of Mandamus by respondent Ernest Maggini, County Clerk of the County of Monterey.

12. 10-25-72—Brief of Interveners Viola N. Richardson and Duncan M. James in Response to the Brief of the American Civil Liberties Union as Amicus Curiae.

13. 10-25-72—The Motion to Intervene denied; joined as party respondent on court's own motion. Motion to Intervene and Points and Authorities may serve as return to the Alternate Writ.

14. 11-06-72—Ordered on bank calendar, San Francisco: 12-6-72.

15. 12-06-72—Filed letter from District Attorney of Mendocino County regarding Proposition 7.

16. 12-06-72—Matter (mandamus) called and continued.

17. 12-08-72—Filed letter from California Rural Legal Assistance regarding Proposition 7.

18. 12-15-72—Supplemental Points and Authorities of Respondent Edmund G. Brown, Jr., Secretary of State.

19. 1-11-73—Ordered on bank calendar, San Francisco: 2-5-73.

20. 2-05-73—Matter (mandamus) called and argued.

21. 3-30-73—Decision filed.

22. 10-15-73—Filed order from U. S. Supreme Court granting cert.

In the Supreme Court of the State of California

S.F. No.

Abran Ramirez, Larry Gill and Albert Lee, on behalf of themselves and all others similarly situated, Los Pintos, 7th Step Foundation, Inc. (California Affiliates), Prisoners' Union, and The League of Women Voters of California,

Petitioners,

vs.

Edmund G. Brown, Jr., Secretary of State of the State of California; Ernest Maggini, County Clerk for the County of Monterey County; Mervin Mattos, Registrar of Voters of Stanislaus County; Ruth Warnken, County Clerk of San Luis Obispo County, individually and as representatives of the class of all other County Clerks and Registrars of Voters,

Respondents.

PETITION FOR WRIT OF MANDATE

To the Honorable Donald R. Wright, Chief Justice, and to the Honorable Associate Justices of the Supreme Court of the State of California:

Petitioners Abran Ramirez, Larry Gill, Albert Lee, Los Pintos, 7th Step Foundation, Inc. (California Affiliates), Prisoners' Union, and The League of Women Voters of California respectfully petition this Court for a Writ of Mandate and in support of their petition allege as follows:

INTRODUCTION

I.

On May 24, 1966, this Court in *Otsuka v. Hite,* 64 Cal.2d 596, construed the phrase "infamous crime" of Section 1 of Article II of the California Constitution to include only those crimes which threaten the purity of the ballot box. In the six years since that decision the registrars of voters in the fifty-eight (58) counties have determined on an ad hoc basis who in their individual opinion will be denied the right to vote. A survey conducted by the California Secretary of State two months ago showed such disparity of practice by county registrars that practically no two counties are alike. For example in Alameda every ex-felon is registered except those convicted of Election Code violations whereas in other counties examples of disqualifying crimes include non-support in San Diego County, desertion in Santa Cruz County, prostitution in San Bernardino County, possession of marijuana in San Joaquin County, statutory rape (but apparently not forcible rape) in Los Angeles County, and drunk driving in Butte County.

In addition during the six years since *Otsuka* was decided the Courts have taken a new look at restrictions imposed on the election process and have placed an even greater burden on states to justify any limitations. Long-established and traditional conditions previously considered valid have been struck down or abandoned. These include residency requirements, literacy tests, property qualifications, and filing fees and ballot qualifications for candidates. Twenty-one

states, in recognition of the lack of any continued threat to the voting process in contemporary society and in recognition of the debilitating effects of second class citizenship, now permit ex-felons to vote.

The close of registration for the General Election, including the election of the President of the United States, occurs in 130 days. Approximately 100,000 California ex-convicts are presently ineligible to register. This petition seeks a writ of mandate to eliminate present unconstitutional denial of the right to vote by finding Article II, Section 1 and Article XX, Section 11 to be unconstitutional or alternately by limiting the application of those California sections in a manner consistent with the federal Constitution.

PETITIONERS

II.

Abran Ramirez is a Spanish-speaking farmworker who has lived in San Luis Obispo County for eight years. He and his wife have five children. He was convicted twenty-one years ago in Texas of robbery by assault. He served approximately three months in a Texas prison followed by ten years parole. He applied to register to vote on February 15, 1972 at the San Luis Obispo County Clerk's office. He was told that he would be ineligible to register in San Luis Obispo County because he had spent time in a state prison. The declaration of Abran Ramirez is attached as Exhibit A and incorporated herein by reference.

III.

Albert Lee is presently unemployed and lives with his wife and four children in Monterey County. In 1955 he was sentenced to two years in prison following a conviction for possession of dangerous drugs. He was discharged from parole two years after his release from prison. He sought to register to vote at the Monterey County Courthouse in Salinas on March 17, 1972. After he stated he had been convicted of a felony, he was referred to the County Clerk who told him he could not register. The declaration of Albert Lee is attached as Exhibit B and incorporated herein by reference.

IV.

Larry Gill has three convictions on his record, two for burglary and one for forgery. All three convictions were the result of his attempts to obtain money to support a narcotic addiction. Since his release from prison he successfully ended the drug addiction. He now lives in Stanislaus County with his wife and four children and is employed with the Gallo Wineries. He applied to register to vote at the Stanislaus County Registrar of Voters office on April 18, 1972. He was notified by a letter from the Stanislaus County Registrar that because of his convictions he could not register. The declaration of Larry Gill is attached as Exhibit C and incorporated herein by reference.

V.

Each of the individually named Petitioners is fully qualified to register to vote except for his felony conviction.

VI.

The foregoing Petitioners bring this action individually and on behalf of all other persons who are ineligible to register to vote in California solely by reason of a conviction of a felony other than an election code felony. This class consists of persons too numerous to mention and joinder of all parties is impracticable. There are common questions of law and fact concerning their rights. The claims of the named Petitioners are typical of the class, and they will fairly and adequately represent the class.

VII.

Los Pintos is a non-profit California association whose members are predominantly Mexican-American persons previously convicted of felonies. Its purposes are to aid the pinto/pinta in transition from captive society, to provide counseling in education, financial aid and housing, and to motivate through education.

VIII.

The 7th Step Foundation, Inc. (California Affiliates) is a non-profit California corporation. Its purposes are to promote and carry out programs for the rehabilitation, education and civic orientation of present and former inmates of correctional institu-

tions, and to educate the general public regarding the necessity and propriety of such programs.

A paramount objective of the Foundation is crime prevention and fostering of healthy social and psychological attitudes and behavior traits on the part of those who might have a tendency toward delinquent or antisocial behavior.

IX.

Prisoners' Union is a non-profit California corporation. Its purposes are to (1) end the denial of human and civil rights to ex-convicts; (2) obtain abolition of the indeterminate sentence; and (3) end economic exploitation of prisoners and ex-convicts.

X.

League of Women Voters of California is a non-profit California corporation whose purpose is "to promote informed and active participation of citizens in government. The League of Women Voters believes that democratic government depends upon the informed and active participation of its citizens . . . that every citizen should be protected in his right to vote; . . . and that no person or group should suffer legal, economic or administrative discrimination." On February 16, 1972, the League of Women Voters of California reached the specific consensus that "the right to register and vote should be restored to ex-felons."

RESPONDENTS

XI.

Edmund G. Brown, Jr., is the Secretary of State for the State of California. He is the chief election officer for the State of California.

XII.

Ernest Maggini is the County Clerk of Monterey County, California. Mervin Mattos is the Registrar of Voters of Stanislaus County, California. Ruth Warnken is the County Clerk of San Luis Obispo County, California. Each of the foregoing Respondents has the duty of determining for his respective county whether an ex-felon will be denied the right to vote.

XIII.

The Respondents named in the foregoing paragraph are sued individually and as representatives of the class of all other County Clerks and Registrars of Voters who have the duty of determining for their respective counties whether any ex-felon will be denied the right to vote. It is impractical because of their number to name and serve every member of the class. The issues and questions involved in this action are identical to every member of the class. The named Respondents will fairly and adequately represent the interest of the class.

THE LAW

XIV.

Article II, Section 1 of the California Constitution provides in pertinent part:

> [P]rovided, further, no alien ineligible to citizenship, no idiot, no insane person, *no person convicted of any infamous crime,* no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State. . .

Article XX, Section 11 of the California Constitution provides in pertinent part:

> Laws shall be made to exclude . . . from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes.

Penal Code § 2600 provides:

> A sentence of imprisonment in a state prison for any term suspends all the civil rights of the person so sentenced, and forfeits all public offices and all private trust, authority, or power during such imprisonment.

Election Code § 389 provides:

> The County Clerk shall, in the first week of September in each year, examine the records of the courts having jurisdiction in the case of infamous crimes and the embezzlements or misappropriation of public money, and shall cancel the affidavits of registration of all voters who have

been finally convicted of an infamous crime, or of the embezzlement or misappropriation of public money.

PRE-OTSUKA

XV.

Until the *Otsuka* decision in 1966 all persons convicted of any felony were prohibited from registering and voting. At that time this Court ruled that not all felonies were "infamous crimes".

POST-OTSUKA

XVI.

On February 17, 1972, Respondent Edmund G. Brown, Jr., sent a letter to Respondent County Clerks and Registrars of Voters stating:

> My office has received numerous inquiries as to when former convicted felons are permitted to register to vote. The Supreme Court's 1966 decision set forth broad principles, but I have been able to discover little or no data regarding the specific practices at the county level. Concern has been expressed to me that there may be a serious lack of uniformity throughout the state. In order to obtain some preliminary data as a first step toward clarification of this problem, I am asking you to complete and return to me the enclosed questionnaire.

The questionnaire asked (1) If the County had adopted written guidelines or other informal policy; (2) Who had authority to make determinations; (3) The number of applications by felons accepted and

rejected; and (4) The specific crimes for which registration had been permitted and denied.

XVII.

Forty-nine (49) of the fifty-eight (58) counties responded to the questionnaire. The results indicate a very wide disparity of practice and procedure. A complete copy of the responses are attached as Exhibit D and incorporated herein by reference. The following indicates various county practices:

[A] A person convicted of burglary who has been released from prison and parole would be registered if he lived in Alameda, Contra Costa, Fresno, Marin, San Joaquin, Sonoma, or Yuba Counties. He would be denied registration if he lived in El Dorado, San Bernardino, or Santa Cruz County.

[Z] Similarly at least eight counties (Yolo, Sonoma, Santa Clara, San Francisco, San Diego, Sacramento, Contra Costa, and Alameda) would register a robbery ex-felon whereas seven others (Siskiyou, Santa Cruz, San Joaquin, San Bernardino, Orange, Monterey, and Los Angeles) would not.

[C] Twenty-one counties indicate they will register one convicted of possession of dangerous drugs, but Butte and San Joaquin will not. San Bernardino will register one convicted of possession but not one convicted of use. Orange, San Bernardino, and Santa Cruz will register the first two but not sale of drugs. At least nine of the others register all three.

[D] Butte County indicated that it would not register one convicted of drunk driving causing

death but would register one convicted of wife beating. San Bernardino will not register one convicted of "sex charges" but will register an ex-felon convicted of child molesting. San Diego County will register one convicted of first degree murder but not one convicted of non-support. Los Angeles County will not register an ex-felon whose crime was statutory rape but apparently will register one who was guilty of forcible rape. Santa Clara permits registration if the crime was prostitution, but San Bernardino will not.

[E] Several counties register those convicted of embezzling, forgery, or insufficient funds. (Alameda, Colusa, Contra Costa, Marin, Riverside, Sacramento, Santa Clara and San Francisco) Santa Clara will register one convicted of income tax evasion but Los Angeles will not. San Joaquin registered one convicted of transporting counterfeiting tools but denied the franchise to another guilty of issuing bad checks.

[F] The responses of Sonoma and San Joaquin counties indicate that they have a two conviction rule. There persons convicted of *two* non-infamous crimes such as assault and armed robbery will not be registered because two non-infamous crimes are apparently equivalent to one infamous crime.

[G] Tuolomne County indicates that it incorporates in its definition of "infamous crime" the list set out in *Words & Phrases,* Vol. 21, p. 539. That list includes assault, burglary, conspiracy, excise laws, fornication, gaming, liquor laws, and willful neglect of wife. It is followed by fifteen pages of discussions which are apparently not incorporated into the definition and which in the

case of liquor laws, for instance, indicate that the listed crime is in fact not "infamous".

XVIII.

The hodge-podge of practices which have been adopted have resulted in county of residence being a decisive factor in whether registration will be permitted. As a result, the personal moral code of individual clerks determines which ex-felons will be granted the franchise.

EARLY VOTING PRACTICES

XIX.

At the time of the adoption of the 1849 Constitution, voting fraud was recognized by the framers as a grave threat to the integrity of the election process.

IRREGULAR BALLOTS

XX.

When the Constitution was adopted each party and each candidate could and did print its own ticket, the candidate's ticket was distributed and the voter cast his vote by depositing one of the two tickets in the ballot box. A ballot was valid although a printed name had been scratched out and another candidate's name written in. The tickets varied in size and color.

NO REGISTRATION

XXI.

In 1849 there was no registration of voters and every person could vote. Double and triple voting was

common. Large crowds composed of certain candidates and their friends surrounded the polling places and discouraged voters favoring opposition candidates from approaching the ballot box. Prospective voters were actually rounded up like cattle, confined in corrals, given liquor and other payment for their vote and led to the ballot box the next day to dutifully deposit in the box the ticket handed to them.

PRESENT VOTING PRACTICES

XXII.

Today voting in California is done either by machine or by a paper ballot printed by the State, numbered in sequence, uniform in size and color, and obtainable only at the polling place by a duly appointed election official. It is practically impossible for a fraudulent ballot to be cast on the machines currently used in California. No person is permitted to vote unless he has previously registered.

XXIII.

As a result of the extensive statutory safeguards relating to elections, voting fraud does not exist in California today. The last reported case of any election code violation was in 1919. The Clerk of the California Bureau of Criminal Statistics reports that there has been no conviction for election-related offenses during the 18 years he has been with the Bureau. The declaration of James Mattesich is attached as Exhibit E and incorporated herein by reference.

TWENTY-ONE STATES CONSIDER EX-FELONS NO THREAT TO BALLOT BOX

XXIV

Forty percent of the states, as of now, either do not disenfranchise those convicted of a felony (4 states), only disqualify those convicted of an election code violation (2 states) or have provided an automatic restoration of civil rights upon completion of sentence (15 states). The twenty-one states are: Arkansas, Colorado, Hawaii, Illinois, Indiana, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New York, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Vermont, and Wisconsin.

The "Uniform Act on the Status of Convicted Persons" restores full civil rights upon completion of prison term and parole.

Extending the franchise to ex-felons in the foregoing states has in no way violated the purity of the ballot box.

THE CLEAR TREND IS TOWARD ELIMINATION OF RESTRICTIONS ON THE FRANCHISE

XXV.

Long established and traditional conditions on the election process previously considered valid have been struck down or abandoned. These include residency

requirements, literacy tests, property qualifications, and filing fees and ballot qualifications for candidates.

XXVI.

The President's Commission on Law Enforcement and the Administration of Justice emphasized in its findings the necessity of "reintegrating offenders through active intervention on their behalf with community institutions" and warned against community restrictions which "lock out" the person who carries a criminal stigma. The Commission recommended adoption of the Model Penal Code approach of automatically restoring civil rights to ex-convicts upon completion of incarceration and parole.

XXVII.

The President's Commission on the Causes and Prevention of Violence similarly concluded after months of hearings and study of civil disorder in this country that denial of the right to vote tends to alienate people (particularly young people) and "to drive them into a search for an alternative, sometimes violent means to express their [feelings]."

XXVIII.

During April of 1972, the League of Women Voters of the United States of America published their study on obstacles to voting. In their summary they noted:

> In a democratic society, no right is more fundamental than the right of every citizen to vote.

Indeed, the vote is the very symbol of democracy. . . .

In studying the way our current election system is administered, the League of Women Voters Education Fund found that the administrative practices of local election officials and therefore citizens' access to the election system vary greatly from place to place, that many state election officials have not established structures and procedures which would insure uniform interpretation and administration of state election codes throughout each state and that the discretion which most state laws give to local election officials is often exercised in a manner which impedes rather than enhances the citizen's right to vote.

. . . Citizens must no longer be forced to earn the 'privilege' but rather must be insured the *right* to vote. . . .

XXIX.

In the Spring of 1971, the Ford Foundation funded a study of registration and voting throughout the United States. A part of this study included a survey of attitudes toward voter eligibility. In the survey, conducted by the Education Fund of the League of Women Voters, the opinions were obtained from a representative sample of 16 categories of community organizations. Each was asked whether persons convicted of a felony and released from prison should be eligible to vote. The results were as follows:

Democratic Party Chairmen	80%	in favor
Republican Party Chairmen	65%	"
Third Party Chairmen	66%	"
County Board of Elections Chairmen	68%	"
City Board of Elections Chairmen	83%	"
Mayors	75%	"
City Managers	76%	"
City Council Presidents	79%	"
Board of County Commissioners Chairmen	74%	"
League of Women Voters	93%	"
National Association for the Advancement of Colored People	92%	"
Labor Council Presidents	88%	"
Youth Groups	97%	"
Chamber of Commerce Presidents	81%	"
American Legion Commanders	68%	"
Non-Black Minority Groups	95%	"

At least two-thirds (⅔) of every group sampled felt that ex-felons should be entitled to vote. A copy of the report of the survey is attached as Exhibit F and incorporated herein by reference.

MOST EX-FELONS UNABLE TO VOTE ARE MINORITY AND LOW-INCOME

XXX.

Records kept by the State of California indicate that there are approximately 100,000 ex-felons in California who would be eligible to register but for the felony disqualification. Prison statistics indicate that 49% of persons convicted of felonies are Black or

Chicano. The state population is composed of only 24% Blacks and Chicanos. The Bureau of Criminal Statistics estimate that 90% of convicted felons were earning less than $5,000 annually. The declaration of Philip J. Jimenez is attached as Exhibit G and incorporated herein by reference.

PARDON

XXXI.

Pardon is not a practical or effective device for obtaining franchise. During the four year period from 1968 thru 1971 only 282 pardons were granted. During this period 34,262 men and women were released from state prisons. A copy of the declaration of James Mattesich is attached as Exhibit H and incorporated herein by reference.

REHABILITATION

XXXII.

Petitioner Larry Gill in his declaration marked as Exhibit C states:

> Now that I'm not against society, not preying on society, and I'm standing on my own two feet, voting is a right I should have. If I can vote, my past won't be my present. My present should be my present. The state won't let it rest, you pay forever. We should be entitled to this reward; an ex-felon has to work harder to earn it more than anyone else.

XXXIII.

The Registrar of Voters of Orange County, California in responding to the Secretary of State's questionnaire stated:

As a matter of equity, it seems to me that a convicted felon who has paid his debt to society should not be denied forever his right to vote. I believe that restoration of the voting privilege should be a positive step in the rehabilitation process of a convicted criminal.

CONCLUSIONS OF SECRETARY OF STATE'S REPORT

XXXIV.

In response to Secretary of State Brown's survey, fifteen percent of the counties responding gratuitously expressed the need for definitive guidelines (El Dorado, Kern, Orange, San Diego, Santa Barbara, Santa Cruz, and Ventura). Only two of the counties (Los Angeles and San Mateo) have developed any written guidelines of their own. The Secretary of State in his finding stated that:

> Although the policy within most counties may be consistent the fact that some counties have adopted different policies has created a situation in which there is a lack of uniformity across the state. It appears from the survey that a person convicted of almost any given felony would find that he is eligible to vote in some California counties and ineligible to vote in others. . . .
>
> Based on the survey the Secretary of State strongly concurs in this conclusion and urges the legislature or the courts to act in this regard in time for the presidential election in November 1972.

A copy of the Secretary of State's report is attached as Exhibit I, and incorporated by reference herein.

CONSTITUTION VIOLATED

XXXV.

Withholding of the right to vote because of county of residence and the particular moral code of the clerk of that county denies petitioners due process and equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution.

XXXVI.

Denial of the right to vote to ex-felons after completion of their prison term and parole for a felony conviction other than an Election Code violation denies them due process and equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution.

ACTION BY THIS COURT IS REQUIRED

XXXVII.

On November 7, 1972, this Nation's electors will cast their ballots for President of the United States. In California registration for this election closes on October 7, 1972. This is 130 days from the date of the filing of this action. Petitioners have no plain, speedy, or adequate remedy other than this action. The 130 days is not sufficient time to allow petitioners to obtain redress in the 58 counties by any other means. Unless this Court issues its alternative and peremptory writs, petitioners will be denied the right to vote in the general election and will suffer irreparable injury.

Wherefore, petitioners pray that:

1. An alternative writ of mandate be issued commanding respondents to register to vote all ex-felons whose term of incarceration and parole have expired and who upon application demonstrate that they are otherwise fully qualified to vote, or to show cause before this Court why they have not done so;

2. On a hearing of this application and the return thereto, if any, this Court issue its peremptory writ of mandate commanding respondents to register to vote all ex-felons whose term of incarceration and parole have expired and who upon application demonstrate that they are otherwise fully qualified to vote;

3. For costs of this suit; and

4. For such other and further relief as justice may require.

May 31, 1972.

Respectfully submitted,

Burton D. Fretz
Charlotte M. Fischman
Martin R. Glick
Philip J. Jimenez
David Kirkpatrick
Gene Livingston
Donald G. Green
Sarel M. Kandell

By Martin R. Glick
Attorneys for Petitioners

In the Supreme Court of the State of California

S.F. No.

Abran Ramirez, Larry Gill, Albert Lee, on behalf of themselves and all others similarly situated, Los Pintos, 7th Step Foundation, Inc. (California Affiliates), Prisoners' Union, and The League of Women Voters of California,
Petitioners,

vs.

Edmund G. Brown, Jr., Secretary of State of the State of California; Ernest Maggini, County Clerk for the County of Monterey County; Mervin Mattos, Registrar of Voters of Stanislaus County; Ruth Warnken, County Clerk of San Luis Obispo County, individually and as representatives of the class of all other County Clerks and Registrars of Voters,
Respondents.

EXHIBITS TO PETITION FOR WRIT OF MANDATE

Burton D. Fretz
Charlotte M. Fischman
Martin R. Glick
Philip J. Jimenez
David Kirkpatrick
Gene Livingston
California Rural Legal Assistance
P.O. Box 425
126 West Mill Street
Santa Maria, California 93454
Telephone: (805) 922-4563

Donald G. Green
1216 I Street
Modesto, California 95351
Telephone: (209) 526-3560

Sarel M. Kandell
League of Women Voters Education Fund
1730 M Street, N. W.
Washington, D. C. 20036
Telephone: (202) 659-2635

Attorneys for Petitioners

POOR COPY

TABLE 3. NUMBER AND PERCENT OF ORGANIZATIONAL REPRESENTATIVES BY POSITION WHO BELIEVE THAT FELONIES, MISDEMEANANTS AND UNDER-AGED SHOULD BE ELIGIBLE TO VOTE.

Statement	Party Positions: DP	RP	TP	Election Boards: COEE	CIEE	Executive/Administrative: M	CM	PCC	BCC	Voluntary Organizations: LWV	CA/CP	LCF	YG	PCC	CAL	NG	Score: Low	High
N =	201	200	41	158	86	193	111	79	175	219	119	166	61	273	144	63		
	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%
A. Persons who have been convicted of a felony but who have been released from prison.	80	65	66	68	83	75	76	79	74	93	52	88	97	81	69	95	65	97
B. Persons who have been in a mental institution but are not currently under treatment.	91	86	81	87	91	90	89	90	88	96	87	92	95	94	83	92	81	96
C. Persons who are on welfare.	96	89	68	94	97	93	95	95	89	99	95	88	100	93	94	100	68	100
D. Persons who have been previously convicted of an election offense.	67	46	51	49	50	55	60	44	51	63	57	53	66	49	38	45	38	67
E. Persons who are continuously in minor trouble with the law.	91	85	85	85	90	90	94	85	78	92	84	88	95	86	76	94	76	95
F. College students who are from another city (even if they are (a) old enough to vote and (b) have attended the college in the community for more than a year.	76	37	51	46	33	48	50	39	45	79	81	73	92	49	49	91	33	92
G. Persons who have been dishonorably discharged from the armed forces.	71	55	68	59	66	59	73	64	57	90	81	64	98	61	50	86	39	98
H. Persons who have refused to serve in the military services.	70	50	51	50	57	57	76	54	47	93	78	53	93	59	25	82	25	93
I. American citizens living on Federal reservations.	95	92	88	96	93	95	93	96	93	99	97	98	98	98	95	100	88	100
J. Persons who identify themselves as communists.	68	61	56	59	66	54	70	50	62	86	59	64	92	51	31	95	31	92
K. Persons under 21 years of age.	95	81	78	90	90	90	78	85	87	97	93	95	100	84	81	94	78	100
L. In school levy elections, persons not paying property taxes.	76	62	59	58	67	75	84	64	69	95	85	76	88	72	48	87	48	89
M. Persons who cannot read or write English.	87	67	66	77	67	81	88	71	75	88	91	85	95	72	64	93	64	95
N. Persons serving in the military but overseas.	97	99	95	98	97	95	96	97	97	97	92	97	100	96	97	78	92	100
O. Civilians living overseas for periods longer than 5 months.	90	87	88	86	86	80	78	76	82	83	82	81	76	76	77	79	75	79
P. Persons who are retired.	97	99	98	98	98	97	96	95	97	99	96	99	100	98	99	100	96	100

N refers to the number of respondents for the first statement. All percents computed on actual N's but sample sizes not reported in this table.

Positions are identified as follows:

DP = Democratic Party Chairman
RP = Republican Party Chairman
TP = Third Party Chairman
COEE = County Board of Elections Chairman
CIEE = City Board of Elections Chairman
M = Mayor
CM = City Manager
PCC = City Council President
BCC = Board of County Commissioners Chairman
LVV = League of Women Voters
NAACP = National Association for the Advancement of Colored People
LCF = Labor Council President
YG = Youth Groups
PCC = Chamber of Commerce President
CAL = American Legion Commander
MG = Homeless Minority Groups

Exhibit I

(Letterhead of
Secretary of State
State of California
111 Capitol Mall
Sacramento, California 95814)

May 30, 1972

REPORT OF SECRETARY OF STATE REGARDING THE RIGHT TO VOTE OF EX-FELONS IN CALIFORNIA

A recent survey of California elections officials was conducted by the office of the Secretary of State regarding the right of ex-felons to vote under Article 2, Section 1 of the California Constitution. The survey was conducted by means of a questionnaire which was sent to the county clerk or registrar of voters in each of the fifty-eight California counties. Forty-nine counties (84%) responded.

The questionnaire included the following questions:

1. Do you have written guidelines for determining whether or not a former felon is eligible to register to vote?
2. If there are no written guidelines, have policies been developed in your county for determining whether or not a former felon is eligible to register to vote?
3. What person(s) have authority to determine the eligibility of a former felon to register to vote?

4. How many former felons have been permitted to register and how many have been denied registration because of their criminal records?
5. State specific crimes for which registration has been permitted or denied.

The following general conclusions resulted from the survey:

1. Most of the counties surveyed have given careful consideration to the problem and have attempted to develop consistent criteria for determining which ex-felons shall be entitled to register. In some counties these policies have been formalized in writing, but in most instances a case-by-case method has been used.
2. Although the policy within most counties may be consistent, the fact that some counties have adopted different policies has created a situation in which there is a lack of uniformity across the state. It appears from the survey that a person convicted of almost any given felony would find that he is eligible to vote in some California counties and ineligible to vote in others.
3. In order to remedy this lack of uniformity, authoritative guidelines from either the legislature or the courts are urgently needed.

Specific findings on which these general conclusions were based include the following:

1. Of the forty-nine counties which responded, only two had issued written guidelines for de-

termining voting eligibility of ex-felons. These two counties compiled lists of crimes for which an applicant is considered eligible or ineligible. In addition, six counties have a general policy of registering all former felons except those convicted of Election Code violations, embezzlement, or misappropriation of public funds. These six counties have not reduced this policy to writing, apparently because the simplicity of the policy has made written regulations unnecessary.

2. The remaining counties determine whether a former felon is eligible to vote on a case-by-case basis. Most of these counties refer each case to their county counsel or other legal officer for the ultimate decision.

3. It is impossible to estimate reliably the number of ex-felons in California who have been permitted or denied registration because many counties keep no records from which such information can be obtained. In the counties where records were kept which made estimates possible, the figures ranged from 100% of those who applied having been permitted to vote, to 100% of those who applied having been denied the vote. It appears, however, that in most counties the majority of ex-felons have been permitted to register, particularly in those counties where large numbers have applied.

4. The greatest disparities which appeared in the survey came in the listings of felonies which did or did not disqualify a person from voting. A concise tabulation of results is impossible, because of the large numbers of felonies that were listed and because of the varying practices in the different counties. A complete tabulation is available for public inspection in the office of the Secretary of State in Sacramento. A few examples may illustrate the lack of uniformity.

a. The crime of murder disqualifies a person from voting in at least four counties, but does not disqualify in at least six counties. In one additional county, first degree murder disqualifies, but not second degree murder.

b. Sale of drugs disqualifies an applicant in at least five counties, but not in at least nine counties.

c. Persons convicted of robbery have been permitted to vote in at least eight counties, but not in at least seven counties.

d. A person convicted of a felony under the Election Code would probably be denied the right to vote in every county.

e. A person convicted of refusal of induction into the armed forces would apparently be permitted the right to vote in each county.

f. As to every other felony, however, it appears that some counties might deny the right to vote while other counties would grant it.

Although no specific question of the questionnaire dealt with the absence of statewide guidelines, officials from seven counties stated that guidelines were needed which would set forth a uniform authoritative state policy.

Based on the survey, the Secretary of State strongly concurs in this conclusion and urges the legislature or the courts to act in this regard in time for the presidential elections in November 1972.

3. (YES--REGISTERED NO--REFUSED REGISTRATION)	Bigamy	"Sodomy"	Homosexuality	"Rape"	Statutory Rape	Embezzlement
ALAMEDA 1/	No	Yes	Yes	Yes	Yes	Yes
ALPINE Unclear						
AMADOR Unclear						
BUTTE		No	No	No	No	No
CALAVERAS						No
COLUSA						
CONTRA COSTA 1/	No	Yes	Yes	Yes	Yes	Yes
DEL NORTE						
EL DORADO 2/						
FRESNO		Yes	Yes	Yes		
GLENN Unclear						
IMPERIAL 2/		Yes				No--public
INYO 2/						No
KINGS Unclear						
LAKE 2/ Must receive pardon						
LASSEN		Yes				No
LOS ANGELES 2/		Yes-m	Yes-m			
MADERA 2/ Unclear						
MARIN		Yes		Yes-(LSD)		
MENDOCINO Unclear						
MERCED Unclear						
MODOC Unclear						
MONO		Yes				
MONTEREY 2/						
NAPA Unclear						
NEVADA Unclear						
ORANGE		Yes-m		No		No
PLACER Unclear						
RIVERSIDE 2/		Yes-m				No--public
SAN BENITO 2/ Unclear						
SAN BERNARDINO		Yes	No	No	Yes - felony	
SACRAMENTO 1/	No	Yes	Yes	Yes	Yes	Yes
SAN DIEGO 2/		Yes				No
SAN FRANCISCO 1/	No	Yes	Yes	Yes	Yes	No--public
SAN JOAQUIN 2/		No		No		
SANTA BARBARA		Yes				
SAN MATEO	No	Yes-m	Yes-m	Yes-m		
SANTA CLARA 2/		Yes	Yes	Yes		
SANTA CRUZ				No		
SHASTA Unclear						
SISKIYOU		Yes-m				
SOLANO		Yes	Yes	Yes		
SONOMA		Yes		Yes		
TEHAMA Unclear						
TULARE Unclear						
TUOLUMNE 2/						No
VENTURA		Yes				
YOLO	No	Yes				
YUBA						

2. (YES--REGISTERED) (NO--REFUSED REGISTRATION)		Wife Beating Yes	Forgery Yes	Misappropriation of public funds Yes	Murder Yes	Rape Yes	Malfeasance Yes	Robbery Yes
ALAMEDA								
ALPINE	Unclear							
AMADOR	Unclear							
BUTTE		Yes						
CALAVERAS			No					
COLUSA			Yes					
CONTRA COSTA		Yes	Yes	No	Yes	Yes	Yes	Yes
DEL NORTE								
EL DORADO			No					
FRESNO								
GLENN	Unclear							
IMPERIAL								
KERN			No	No			No	
KINGS	Unclear							
LAKE	Must receive pardon							
LASSEN								
LOS ANGELES			No			No Stat.	No	No
MADERA	Unclear							
MARIN			Yes-grade			Yes Stat.		
MENDOCINO	Unclear							
MERCED	Unclear							
MODOC	Unclear							
MONO								
MONTEREY			No				No	No-armed
NAPA	Unclear							
NEVADA	Unclear							
ORANGE				No		Yes		No-armed
PLACER	Unclear							
RIVERSIDE			Yes		Yes/2nd deg.			
SAN BENITO	Unclear							No
SAN BERNARDINO			No		No/2nd deg.			
SACRAMENTO		Yes	No	Yes	Yes	Yes	No	Yes
SAN DIEGO		Yes	No		Yes	Yes		Yes
SAN FRANCISCO		Yes	No	No	Yes	Yes	No	Yes
SAN JOAQUIN			No					No-armed
SANTA BARBARA				No	No			
SAN MATEO			No		No/2nd deg.	No	No	No
SANTA CLARA			No		Yes-2nd deg.	Yes		Yes-armed
SANTA CRUZ			No		No		No	No-armed
SHASTA	Unclear							No-armed
SISKIYOU								
SOLANO			No					Yes
SONOMA			No		No			
TEHAMA	Unclear							
TULARE	Unclear							
TUOLUMNE				No				
VENTURA								
YOLO			No	No			No	Yes
YUBA								

3. (NO--REFUSED REGISTRATION)		Assault	Manslaughter	Burglary	Felony Offenses	Felony	Bribery
ALAMEDA		Yes	Yes	Yes	Yes		Yes
ALPINE	Unclear						
AMADOR	Unclear						
BUTTE							
CALAVERAS							
COLUSA							
CONTRA COSTA		Yes	Yes	Yes	Yes	Yes	Yes
DEL NORTE				Yes 1/			
EL DORADO				No	No		
FRESNO				Yes			
GLENN	Unclear						
IMPERIAL						No	
KERN							No
KINGS	Unclear						
LAKE	Must receive pardon						
LASSEN							
LOS ANGELES					No		No
MADERA	Unclear						
MARIN				Yes			
MENDOCINO	Unclear						
MERCED	Unclear						
MODOC	Unclear						
MONO							
MONTEREY							No
NAPA	Unclear						
NEVADA	Unclear						
ORANGE							
PLACER	Unclear						
RIVERSIDE		Yes-Aggr.	Yes				
SAN BENITO	Unclear						
SAN BERNARDINO		Yes		No			
SACRAMENTO		Yes	Yes	Yes	Yes	Yes	No
SAN DIEGO		Yes	Yes				
SAN FRANCISCO		Yes	Yes	Yes	Yes	Yes	No
SAN JOAQUIN		2/		Yes			
SANTA BARBARA							
SAN MATEO				No			No
SANTA CLARA							
SANTA CRUZ				No			No
SHASTA	Unclear						
SISKIYOU							
SOLANO		Yes					
SONOMA		No 3/		Yes			
TEHAMA	Unclear						
TULARE	Unclear						
TUOLUMNE							No
VENTURA							
YOLO							No
YUBA				Yes			

4. (YES--REGISTERED
(NO--REFUSED REGISTRATION)

		Perjury	Desertion	Grand Larceny	Auto Theft	Draft Evasion	Attempted Robbery	Insufficient Funds
ALAMEDA		Yes	Yes	Yes	Yes	Yes	Yes	Yes
ALPINE	Unclear							
AMADOR	Unclear							
BUTTE								
CALAVERAS								
COLUSA								
CONTRA COSTA		Yes	Yes	Yes	Yes	Yes	Yes	Yes
DEL NORTE								
EL DORADO				No				
FRESNO								
GLENN	Unclear							
IMPERIAL								
KERN		No						
KINGS	Unclear							
LAKE	Must receive pardon							
LASSEN								
LOS ANGELES		No	No	No	No	No	No	No
MADERA	Unclear							
MARIN					Yes			
MENDOCINO	Unclear							
MERCED	Unclear							
MODOC	Unclear							
MONO								
MONTEREY		No						
NAPA	Unclear							
NEVADA	Unclear							
ORANGE								
PLACER	Unclear							
RIVERSIDE								
SAN BENITO	Unclear							Yes
SAN BERNARDINO								
SACRAMENTO		No	Yes	Yes	Yes	Yes	Yes	No
SAN DIEGO		No						Yes
SAN FRANCISCO		No	Yes	Yes	Yes	Yes	Yes	Yes
SAN JOAQUIN			No	No		No		No
SANTA BARBARA					Yes			
SAN MATEO		No		No				
SANTA CLARA		No			Yes	Yes		Yes
SANTA CRUZ		No	No	No				No
SHASTA	Unclear							
SISKIYOU								
SOLANO				No				
SONOMA								
TEHAMA	Unclear							
TULARE	Unclear							
TUOLUMNE								
VENTURA		No						
YOLO								
YUBA		No			Yes			

5. (YES--REGISTERED) (NO--REFUSED REGISTRATION)		Arson Yes	Child Molesting Yes	False Bomb Yes	Extortion Attempt Yes	Peace Officer Yes	Kidnapping Yes
ALAMEDA							
ALPINE	Unclear						
AMADOR	Unclear						
BUTTE							
CALAVERAS							
COLUSA							
CONTRA COSTA		Yes	Yes	Yes	Yes	Yes	Yes
DEL NORTE							
EL DORADO							
FRESNO							
GLENN	Unclear						
IMPERIAL							
KERN							
KINGS	Unclear						
LAKE	Must receive pardon						
LASSEN							
LOS ANGELES		No	No				
MADERA	Unclear						
MARIN				Yes	Yes		
MENDOCINO	Unclear						
MERCED	Unclear						
MODOC	Unclear						
MONO							
MONTEREY					Yes		
NAPA	Unclear						
NEVADA	Unclear						
ORANGE							
PLACER	Unclear						
RIVERSIDE							
SAN BENITO	Unclear						
SAN BERNARDINO			Yes			No	No
SACRAMENTO		Yes	Yes	Yes	Yes	Yes	Yes
SAN DIEGO			Yes		Yes		Yes
SAN FRANCISCO		Yes	Yes	Yes	Yes	Yes	Yes
SAN JOAQUIN			No				
SANTA BARBARA							
SAN MATEO							
SANTA CLARA		Yes	Yes		Yes	Yes	
SANTA CRUZ							
SHASTA	Unclear						
SISKIYOU							
SOLANO							
SONOMA							
TEHAMA	Unclear						
TULARE	Unclear						
TUOLUMNE		No					
VENTURA							
YOLO							Yes
YUBA					Yes		

6. (YES--REGISTERED)
(NO--REFUSED REGISTRATION)

		Prostitution	Pimping	Pimp Support	Smuggling	Theft	Indecent Exposure	Obscene Matter
ALAMEDA		Yes	Yes	Yes	Yes	Yes	Yes	Yes/Mail
ALPINE	Unclear							
AMADOR	Unclear							
BUTTE								
CALAVERAS								
COLUSA								
CONTRA COSTA		Yes	Yes	Yes	Yes	Yes	Yes	Yes
DEL NORTE								
EL DORADO								
FRESNO								
GLENN	Unclear							
IMPERIAL								
KERN								
KINGS	Unclear							
LAKE	Must receive pardon							
LASSEN								
LOS ANGELES								
MADERA	Unclear							
MARIN								
MENDOCINO	Unclear							
MERCED	Unclear							
MODOC	Unclear							
MONO								
MONTEREY								
NAPA	Unclear							
NEVADA	Unclear							
ORANGE								
PLACER	Unclear							
RIVERSIDE								
SAN BENITO	Unclear							
SAN BERNARDINO		No						
SACRAMENTO		Yes	Yes	Yes	Yes	Yes	Yes	Yes
SAN DIEGO			No	No	Yes	Yes	Yes	
SAN FRANCISCO		Yes	Yes	Yes	Yes	Yes	Yes	Yes
SAN JOAQUIN			No					Yes
SANTA BARBARA								
SAN MATEO								
SANTA CLARA		Yes					Yes	
SANTA CRUZ			No					
SHASTA	Unclear							
SISKIYOU								
SOLANO								
SONOMA								
TEHAMA	Unclear							
TULARE	Unclear							
TUOLUMNE								
VENTURA								
YOLO								
YUBA				Yes			Yes	

7. (NON-REVOKED REGISTRATION)		Encouragement of Yes	Transportation of Yes	Arson Yes	Mahem Yes	Abortion Yes
ALAMEDA						
ALPINE	Unclear					
AMADOR	Unclear					
BUTTE						
CALAVERAS						
COLUSA						
CONTRA COSTA		Yes	Yes	Yes	Yes	Yes
DEL NORTE						
EL DORADO						
FRESNO						
GLENN	Unclear					
IMPERIAL						
KERN						
KINGS	Unclear					
LAKE	Must receive pardon					
LASSEN						
LOS ANGELES			Yes-m			Yes
MADERA	Unclear					
MARIN						
MENDOCINO	Unclear					
MERCED	Unclear					
MODOC	Unclear					
MONO						
MONTEREY						
NAPA	Unclear					
NEVADA	Unclear					
ORANGE						
PLACER	Unclear					
RIVERSIDE						
SAN BENITO	Unclear					
SAN BERNARDINO			Yes			
SACRAMENTO		Yes	Yes	Yes	Yes	Yes
SAN DIEGO						
SAN FRANCISCO		Yes	Yes	Yes	Yes	Yes
SAN JOAQUIN		Yes	Yes			
SANTA BARBARA				No		
SAN MATEO			Yes-m	No	No	
SANTA CLARA			Yes	Yes		
SANTA CRUZ				No	No	
SHASTA	Unclear					
SISKIYOU						
SOLANO			Yes			
SONOMA				Yes (Attempt)		
STANISLAUS	Unclear					
TULARE	Unclear					
TUOLUMNE						
VENTURA						
YOLO						
YUBA						

8. (YES--REGISTERED) (NO--REFUSED REGISTRATION)		Extortion	Footnotes
ALAMEDA		Yes	
ALPINE	Unclear		1/ Indicates "all others are registered".
AMADOR	Unclear		2/ Any person placed on probation who does not actually serve time will be registered.
BUTTE			
CALAVERAS			3/ One person convicted of second degree burglary, given a suspended sentence and probation, was permitted to register.
COLUSA			
CONTRA COSTA		Yes	
DEL NORTE			4/ Their standard is non-registration of persons who "constitute a practical threat to the elective process and no alternative exists that will protect the elective process".
EL DORADO			
FRESNO			
GLENN	Unclear		5/ "Our position generally has been on the lenient side to restore the right of the individual to vote".
IMPERIAL			
KERN			6/ "Crimes of violence felons" may register.
KINGS	Unclear		
LAKE	Must receive pardon		7/ Apparently an ex-felon convicted of assault and armed robbery was denied while an ex-felon convicted of burglary and assault with a deadly weapon was permitted to register.
LASSEN			
LOS ANGELES			
MADERA	Unclear		8/ Was denied for combination of assault and grand larceny.
MARIN			
MENDOCINO	Unclear		
MERCED	Unclear		9/ Incorporated in their definition of "infamous crime" the list sets out in West's California Digest, Vol. 21, Words and Phrases at 539.
MODOC	Unclear		
MONO			
MONTEREY			
NAPA	Unclear		
NEVADA	Unclear		
ORANGE			
PLACER	Unclear		
RIVERSIDE		Yes	
SAN BENITO	Unclear		
SAN BERNARDINO			
SACRAMENTO		Yes	
SAN DIEGO			
SAN FRANCISCO		Yes	
SAN JOAQUIN			
SANTA BARBARA			
SAN MATEO			
SANTA CLARA			
SANTA CRUZ			
SHASTA	Unclear		
SISKIYOU			
SOLANO			
SONOMA			
TEHAMA	Unclear		
TULARE	Unclear		
TUOLUMNE			
VENTURA			
YOLO			
YUBA			

In the Supreme Court of the State of California

In Bank

S.F. No. 22916

Ramirez (Abran) et al.

v.

Brown, as Secretary of State, etc., et al.

[Filed Sept. 7, 1972]

ORDER GRANTING ALTERNATIVE WRIT

Let an alternative writ of mandamus issue, to be heard before this court when the proceeding is ordered on calendar.

The alternative writ is to be issued, served and filed on or before September 13, 1972.

The written return to the writ is to be served and filed on or before September 29, 1972.

Wright
Chief Justice

I, G. E. Bishel, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court, as shown by the records of my office.

Witness my hand and the seal of the Court this day of Sept. 7 1972 A.D. 19....

G. E. Bishel, Clerk
By R. C. Matteoli
Deputy Clerk

In the Supreme Court of the State of California

S.F. No. 22916

Abran Ramirez, et al., Petitioners,

vs.

Edmund G. Brown, Jr., et al., Respondents.

ALTERNATIVE WRIT OF MANDATE

The People of the State of California to the Respondents, Edmund G. Brown, Jr., Secretary of State of the State of California; Ernest Maggini, County Clerk for the County of Monterey County; Mervin Mattos, Registrar of Voters of Stanislaus County; Ruth Warnken, County Clerk of the San Luis Obispo County, individually and as representatives of the class of all other County Clerks and Registrars of Voters:

Good Cause Appearing from the verified petition on file you are hereby ordered to register to vote all ex-felons whose term of incarceration and parole have expired and who upon application demonstrate that they are otherwise fully qualified to vote, or in the alternative to appear before this Court at its courtroom when the matter is put on calendar then and there to show cause why you have not done so.

This alternative writ is to be issued, served and filed on or before September 13, 1972.

Written return to this alternative writ is to be served and filed on or before September 29, 1972.

Witness, the Honorable Donald R. Wright, Chief Justice of the Supreme Court of California.

Dated, September 12, 1972.

Attested by my hand and the Seal of this Court this 12th day of September, 1972.

(Seal) G. E. Bishel
Clerk of the Supreme Court

By: R. C. Matteoli
Deputy Clerk

Duncan M. James, District Attorney
County of Mendocino
P. O. Box 185
Ukiah, California 95482
Telephone: 462-4731, Ext. 231
Attorney for Interveners

In the Supreme Court of the State of California

S.F. No. 22916

Abran Ramirez, et al.,
Petitioners,
vs.
Edmund G. Brown, Jr., Secretary of State of the State of California, et al.,
Respondents.

COMPLAINT IN INTERVENTION

Interveners Viola N. Richardson and Duncan M. James allege:

I

Heretofore, the Court granted interveners leave to intervene in this action and file their complaint in intervention.

II

Intervener Viola N. Richardson is the County Clerk and Registrar of Voters of the County of Mendocino, State of California. In said capacity, she has the

legal duty to register for any and all elections individuals who qualify as electors under the Constitution and laws of the State of California.

III

Intervener Duncan M. James is the District Attorney-Public Administrator and County Counsel for the County of Mendocino, State of California. As such, he has the legal duty to advise county officials as to the law and, under the practices of Mendocino County, has the responsibility for determining the eligibility of individuals to register to vote in any and all local, county, or state elections. Duncan M. James has the legal duty to make such determinations in accordance with the laws and Constitution of the State of California and the United States of America.

IV

* * *

Restatement of paragraph II, Petition for Writ of Mandate, *supra* this appendix.

V

* * *

Restatement of paragraph III, Petition for Writ of Mandate, *supra* this appendix.

VI

* * *

Restatement of paragraph IV, Petition for Writ of Mandate, *supra* this appendix.

VII

* * *

Restatement of Paragraph V, Petition for Writ of Mandate, *supra* this appendix.

VII

* * *

Restatement of paragraph VI, Petition for Writ of Mandate, *supra* this appendix.

IX

* * *

Restatement of paragraph VII, Petition for Writ of Mandate, *supra* this appendix.

X

* * *

Restatement of paragraph VIII, Petition for Writ of Mandate, *supra* this appendix.

XI

* * *

Restatement of paragraph IX, Petition for Writ of Mandate, *supra* this appendix.

XII

* * *

Restatement of paragraph X, Petition for Writ of Mandate, *supra* this appendix.

XIII

* * *

Restatement of paragraph XI, Petition for Writ of Mandate, *supra* this appendix.

XIV

* * *

Restatement of paragraph XII, Petition for Writ of Mandate, *supra* this appendix.

XV

The respondents named in the foregoing paragraph are sued individually and as representatives of the class of all other county clerks and registrars of voters who have the duty of determining for their respective counties whether any ex-felon will be denied the right to vote. The issues and questions involved in this action are identical to every member of the class.

XVI

Petitioners commenced this action against respondents for a writ of mandate and declaratory relief to strike down certain provisions of the Constitution of the State of California pertaining to the ability of convicted felons to vote. The action is now pending in this Court and trial thereof has not been held.

XVII

Intervener Viola Richardson is a member of the "class of all other County Clerks and Registrars of Voters" named in the petition for writ of mandate

and declaratory relief now before this Court. As such, intervener Viola Richardson has both an interest in the matter in litigation and an interest in the success of respondents in this action.

XVIII

The interests of intervener Viola Richardson are not being adequately represented by the "representatives" chosen to represent the class. Ernest Maggini, County Clerk of the County of Monterey, is represented by William Stauffers, County Counsel of the County of Monterey, who has not and will not file in opposition to the declaratory judgment sought in this case. Mervin Mattos, Registrar of Voters of Stanislaus County, is represented by Deputy County Counsel Martz who has not and will not file in opposition to the declaratory judgment sought. Ruth Warnken is represented by Robert N. Tate, District Attorney of San Luis Obispo County, who has not and will not file in opposition to the declaratory judgment sought in this case.

XIX

Intervener Viola N. Richardson was prevented from intervening earlier in this case by the failure of Edmund G. Brown, Jr., the Secretary of State, to inform the County Clerks that they were being sued. The Secretary of State normally includes in periodic bulletins to the various clerks and registrars through the state information pertinent to their functions. This suit was omitted in an apparent attempt to prevent opposition to the declaratory judgment sought.

XX

Respondent Edmund G. Brown, Jr., cannot and does not represent the interests of intervener Viola N. Richardson in that his personal views, which are of public record, conflict with the position of intervener and with the Constitution of the State of California. Respondent Edmund G. Brown, Jr., has allowed his personal views to block a proper prosecution of this case by the Attorney General, and, unless intervener is granted leave to intervene, the intent of the California Constitution may be circumvented by the tacit acquiescence of respondent Edmund G. Brown, Jr.

XXI

Interveners Duncan M. James and Viola M. Richardson are presently litigating in the case of *Richardson v. James and Richardson* (1972), No. 32973, Superior Court of California in and for the County of Mendocino. Interveners were successful in opposing a petition for writ of mandate and declaratory relief in that case and presently face an appeal to the District Court of Appeal.

XXII

The facts in *Richardson v. James and Richardson*, supra, are nearly identical to those in the case at bar (findings of fact and conclusions of law from that case are attached hereto and incorporated herein by reference as interveners' Exhibit A). Interveners fear that an adverse decision in this case will be a binding

precedent in their case before the District Court of Appeal.

XXIII

Interveners have an interest against respondents in this case in that interveners' position on the voting status of all felons finally discharged from parole who have been convicted of non-Elections Code violations.

XXIV

Interveners' position is that the court spoke clearly in *Otsuka v. Hite* (1966), 64 C2d 596, and *Young v. Gnoss* (1972), 7 C3d 18, 22, when it said disenfranchisement might be used only against "those guilty of offenses which actually evidence corruption or dishonesty."

XXV

Interveners have defined "corruption" to mean a *malum in se* crime traditionally morally wrong as well as illegal of such magnitude as to be a felony and one in which the honesty of the perpetrator is brought into question.

XXVI

Interveners feel that this position is not being put forward by respondents and only the intervention of interveners will protect their interests in this case.

Wherefore, interveners pray judgment of this Court as follows:

1. The right to vote is denied to all felons currently incarcerated or on parole.

2. The right to vote is denied to all felons convicted of Elections Code felonies until pardon is obtained or until a Superior Court restores such right in an Elections Code, Section 350, proceeding.

3. That crimes which are evil in themselves and traditionally morally wrong of such magnitude as to constitute felonies, and wherein the honesty of the perpetrator is brought into question, such as robbery, fraud, burglary, forgery, larceny, extortion, embezzlement, and similar crimes, are infamous within the meaning of the California Constitution and that the moral corruption and dishonesty displayed within such crimes denies the right to vote to those convicted of them, both under the California Constitution and Article 14, Section 2, of the Constitution of the United States.

4. That the right to vote is automaticaly restored to all other felons at the completion of their term of incarceration or parole, whichever comes later.

Duncan M. James
District Attorney
County of Mendocino

Of counsel:
William De Garmo

In the Supreme Court of the State of California

S.F. No. 22916

Abran Ramirez, Larry Gill and Albert Lee, on behalf of themselves and all others similarly situated, Los Pintos, 7th Step Foundation, Inc. (California Affiliates), Prisoners' Union, and The League of Women Voters of California,
Petitioners,

vs.

Edmund G. Brown, Jr., Secretary of State of the State of California; Ernest Maggini, County Clerk of the County of Monterey County; Mervin Mattos, Registrar of Voters of Stanislaus County; Ruth Warnken, County Clerk of San Luis Obispo County, individually and as representatives of the class of all other County Clerks and Registrars of Voters,
Respondents.

RETURN TO ALTERNATIVE WRIT OF MANDAMUS BY RESPONDENT EDMUND G. BROWN JR., SECRETARY OF STATE

Respondent, Edmund G. Brown Jr., Secretary of State of the State of California, hereby makes his return to the Alternative Writ of Mandamus issued herein and admits, denies, and alleges as follows:

I

Respondent has insufficient information to form a belief as to the matters contained in the following

paragraphs of the Petition for Writ of Mandamus, and based upon such lack of information and belief, therefore, denies the allegations contained therein:

All of Paragraph II
All of Paragraph III
All of Paragraph IV
All of Paragraph V
All of Paragraph VII
All of Paragraph VIII
All of Paragraph IX
All of Paragraph X
The second sentence of Paragraph XXII
The first sentence of Paragraph XXIII
The last sentence of Paragraph XXIV

II

Respondent denies the following allegations of the Petition for Writ of Mandamus:

The second sentence of Paragraph XVIII
The first sentence of Paragraph XXXI
All of Paragraph XXXV
All of Paragraph XXXVI
The last sentence of Paragraph XXXVII

III

Respondent admits the allegations contained in Paragraph VI of the Petition for Writ of Mandamus, in particular the allegation:

"The foregoing petitioners bring this action individually and on behalf of all other persons who are ineligible to register to vote in California solely by reason of a conviction of a felony *other than an election code felony.*" (Emphasis added.)

Wherefore, respondent prays that the Alternative Writ of Mandamus previously issued herein be discharged; that no Peremptory Writ issue; that the Petition be dismissed; for costs of suit; and for such other and further relief as may be proper in the premises.

Dated: September 29, 1972

Respectfully submitted,

Evelle J. Younger
Attorney General

Iver E. Skjeie
Assistant Attorney General

Charles P. Just
Deputy Attorney General

George J. Roth
Deputy Attorney General
By George J. Roth
Deputy Attorney General

Attorneys for Edmund G. Brown Jr.
Secretary of State

In the Supreme Court of the State of California

S.F. No. 22916

Abran Ramirez, Larry Gill and Albert Lee, on behalf of themselves and all others similarly situated, Los Pintos, 7th Step Foundation, Inc. (California Affiliates), Prisoners' Union, and The League of Women Voters of California,

Petitioners,

vs.

Edmund G. Brown, Jr., Secretary of State of the State of California; Ernest Maggini, County Clerk of the County of Monterey County; Mervin Mattos, Registrar of Voters of Stanislaus County; Ruth Warnken, County Clerk of San Luis Obispo County, individually and as representatives of the class of all other County Clerks and Registrars of Voters,

Respondents.

RETURN TO ALTERNATIVE WRIT OF MANDAMUS BY RESPONDENT ERNEST MAGGINI, COUNTY CLERK OF THE COUNTY OF MONTEREY

Respondent, Ernest Maggini, County Clerk of the County of Monterey, hereby makes his return to the Alternative Writ of Mandamus herein heretofore issued and states:

That immediately upon receipt of the alternative writ that he commenced to and continues to register to vote all ex-felons whose term of incarceration and

parole have expired and who upon application have demonstrated that they are otherwise fully qualified to vote.

/s/ Ernest Maggini,
County Clerk
County of Monterey
Respondent

/s/ William H. Stoffers,
County Counsel
County of Monterey
Attorney for Respondent

(Letterhead of County Clerk
Courthouse Annex
San Luis Obispo, California - 93401)

September 14, 1972

Hon. G. E. Bishel
Clerk of the Supreme Court
4250 State Building, Civic Center
San Francisco, Calif. 94102

Dear Sir:

Re: Abran Ramirez, et al., vs. Edmund G. Brown, Jr., et al., No. S. F. 22916

Pursuant to the Alternative Writ of Mandate issued on September 12, 1972 in the above action, a copy of which was received by me today, I have instructed all of my deputies, both within the office and out in the field, by a written memorandum this date, that commencing immediately they are to register to vote all ex-felons whose term of incarceration and parole have expired and who are otherwise fully qualified to register to vote in San Luis Obispo County.

I trust that this procedure will be the compliance required by the Alternative Writ.

Very truly yours,
/s/ Ruth Warnken,
County Clerk

rw:w
cc: Robert N. Tait, District Attorney
California Rural Legal Assistance,
San Francisco

Filed September 15, 1972.
G. E. Bishel, Clerk,
Thompson,
S. F. Deputy.

In the Supreme Court of the State of California
In Bank

S. F. No. 22916

Ramirez et al.
v.
Brown, etc.

The motion to intervene by Viola N. Richardson and Duncan M. James is denied. On the court's own motion, Viola N. Richardson is joined as a party respondent to the above-entitled proceeding. The motion to intervene and the supplementary points and authorities in support of that motion may serve as the return to the alternative writ.

/s/ R. L. Sullivan
Acting Chief Justice

Filed Oct. 25, 1972,
G. E. Bishel, Clerk
G. Schnish
S. F. Deputy

DECISION BELOW

The opinion of the Supreme Court of California, reported at *Ramirez v. Brown,* 9 C.3d 199, 507 P.2d 1345, 107 Cal.Rptr. 137 (1973), appears in the Appendix to the Petition for Writ of Certiorari.

Supreme Court of the United States

No. 72-1589 ,

Viola M. Richardson, as County Clerk, etc.,

Petitioner,

v.

Abran Ramirez, et al.

Order allowing certiorari. *Filed* October 9, , *19* 73

The petition herein for a writ of certiorari to the Supreme Court of the State of California *is granted.*